



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Office of Regional Counsel
Underground Storage Tank, Asbestos,
Lead, Pesticide Branch
Mailcode: 3RC50

Direct dial: (215) 814-2474
Facsimile: (215) 814-2603
Email: thomas.donzetta@epa.gov

April 14, 2011

via email:

David L. Braverman, Esq.
Braverman Kaskey
One Liberty Place, 56th Floor
Philadelphia, PA 19103

RE: Arsenal Business Center (ABC)
Noncompliance with Administrative Compliance Order

Dear Mr. Braverman:

As stated in my April 7, 2011 letter to you, EPA would visit the Facility on April 8, 2011 to verify Arsenal's compliance with Paragraphs A - D of the ACO, as you had indicated in your April 5, 2011 letter. Duly authorized representatives of EPA inspected the Facility on April 8, 2011. The results of that inspection revealed that although there was evidence of compliance, as well as attempts to come into compliance, the Facility was not in compliance with Paragraphs 55 C and D of the ACO. This letter, via the attachment, serves to notify you of specific areas where Arsenal has not achieved full compliance with the ACO. These areas of noncompliance must be corrected immediately.

During the April 8, 2011 inspection, there was a delay with the EPA Inspectors (s) gaining access to the Facility. Please take the necessary steps to ensure that such does not happen in the future. EPA inspector(s) will plan to visit the Facility early next week to verify complete compliance with the ACO. Please ensure that areas of noncompliance, as noted on the Attachment, have been completed.

If you have any questions regarding this letter, you may call me at (215) 814-2474.

Sincerely,
/s/
Donzetta Thomas
Senior Assistant Regional Counsel

Attachment: Noncompliance with Paragraphs 55C-D of ACO



*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474*

cc: Michelle Walker, Esq. (Braverman Kaskey)
Dennis Yuen, City of Philadelphia Law Department

NONCOMPLIANCE WITH PARAGRAPHS 55 C-D OF ACO

The following information was obtained during an inspection by an authorized EPA inspector on Friday April 8, 2011.

PARAGRAPH 55C - Seal and lock all windows and doors and cover openings in Buildings 57, 58, 121, 123, 125, 235 and 301. --- NOT IN COMPLIANCE, as follows:

- Building 57 - The entrances to the building were secured with plywood. Approximately half of the open windows (mostly on the first floor) in the building had been covered with 6 mil plastic. Framing lumber was used to secure the plastic to the windows. The rest of the windows were either intact or were not covered with plastic. NOT in compliance. All openings must be covered.
- Building 58 - Building has been declared ID by the City of Philadelphia. Since the building cannot be safely accessed to cover all openings and will not be immediately demolished, a temporary fence should be erected around the building to restrict access.
- Building 121 - The entrances were secured with either plywood or the original entrance doors. Most of the windows in the building, including the top-span windows, are intact. A few are broken or missing and need to be sealed with plastic. NOT in compliance. All openings must be covered.
- Building 123 - The entrances were secured with either plywood or the original doors. Most of the building's windows are broken and/or are missing and need to be sealed with plastic. This includes the open or broken windows at the top span of the building. NOT in compliance. All openings must be covered.
- Building 125 - The entrances were secured with either plywood or the original entrance doors. Most of the windows in the building are intact, including the top-span windows, but a few are broken or missing and need to be sealed with plastic. NOT in compliance. All openings must be covered.
- Building 235 - The entrances were secured with plywood. The first floor windows that were not intact had been covered with plastic. Most of the windows on the second and third floors were either missing or were broken. In compliance (**caveat provided in note below**)

NOTE: For building 235 only Respondents are permitted to seal the openings located on the first floor and all access points from the first floor to the upper floors. It is not necessary to seal the openings on the second and third floors because EPA has been informed that ACM is located in the basement and the first floor only. Asbestos fibers can be confined to the basement and first floors by sealing off those floors from the second and third floors and to the outside air. An authorized EPA inspector will enter building 235 during the next visit to confirm the presence of ACM in the basement and


first floor only. If ACM is found above the first floor the Respondents will then be immediately required to seal all openings in the entire building (235).

- Building 301 – The entrances and windows were being covered by H&K crews during the day of the inspection. Most of the first floor level windows and entrances were already covered. NOT in compliance. All openings must be covered.

PARAGRAPH 55D – Inspect existing fencing and fix breaches – NOT in compliance.

- Potential access points: The inspector noted several potential access points in the perimeter. These locations mostly consisted of places where chain link gates didn't fit tight enough together, or where chain link sections were placed above low-lying areas, such that a person could crawl beneath that section of fence. These locations were pointed out to Mr. John Swanson.
- Security Fence Breach: A security fence breach was documented on the north side of the facility, along the access road for the Fish and Boat Commission boat ramp. A stone wall runs parallel the access road from Tacony Street approximately 1/8 mile east towards the Delaware River. The fence breach is located at the end of that wall where the chain link fence begins. The fence had been cut and a 5 feet wide section of the fence was pulled away. Approximately 20 feet away, on the facility side of the fence, a bolt cutter was also used to cut out a section of chain link fence to gain access to facility property. Mr. Swanson indicated that the same breach had been fixed the day before and had to have been cut back open the night of April 7.
- Per the Administrative Compliance Order, Respondents need to prevent access to the Facility by unauthorized personnel. To this end, Respondents must increase security by adding additional security guards, security cameras or other methods to proactively prevent these types of breaches in the future and access by unauthorized personnel. Additionally, the potential access points and breach listed above should be patched or altered to eliminate holes and gaps immediately.



Arsenal (4/8/11 Inspection) 
Donzetta Thomas to: Michelle Walker
Cc: "David Braverman", Christine Convery, Dennis.Yuen

04/14/2011 02:20 PM

Good afternoon Ms. Walker-

Attached is a letter regarding EPA's findings during its 4/8/11 inspection.



NONPara55C-D.pdf

"There's hope - it doesn't cost a thing to smile.
You don't have to pay to laugh.
You better thank God for that - there's hope." India.arie

Donzetta W. Thomas
Senior Assistant Regional Counsel (3RC30)
Environmental Protection Agency
1650 Arch Street,
Philadelphia, PA 19103
(215) 814-2474